

SUPERIOR COURT  
OF THE  
STATE OF DELAWARE

RICHARD F. STOKES  
JUDGE

1 THE CIRCLE, SUITE 2  
SUSSEX COUNTY COURTHOUSE  
GEORGETOWN, DE 19947

Ms. April Handy  
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Laurel, DE 19956

Jennifer G. Brady, Esquire  
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Re: *April Handy v. Delaware Hospice*  
C.A. No. S10A-12-001 RFS

*Upon a Decision of the Unemployment Insurance Appeal Board. Affirmed.*

Submitted: July 11, 2011  
Decided: August 23, 2011

Dear Ms. Handy and Counsel:

I have received the parties' briefs and the certified record in this appeal of a decision of the Unemployment Insurance Appeal Board ("Board"). The Board found that Claimant April Handy was discharged from her employment for just cause and was disqualified from receiving unemployment benefits. The Board's decision is affirmed.

Claimant worked as a home health care provider for Employer Delaware Hospice, Inc. for almost four years. She was terminated for failing to record an unauthorized break

on July 30, 2010. She applied to the Department of Labor (“DOL”) for unemployment benefits but was disqualified by a claims deputy because she had been terminated for just cause in connection with her work. 19 *Del.C.* §3314(2). On Claimant’s appeal, a hearing was conducted and an appeals referee affirmed. On appeal, the Board affirmed the referee’s decision that Claimant was disqualified from receiving benefits. Claimant filed a timely appeal to this Court.

In reviewing a decision of the Board, the Court determines whether the decision is supported by substantial record evidence and is free from legal error.<sup>1</sup>

Claimant reargues the facts, emphasizing the uncontested fact that her car had to be repaired on the day in question. Employer argues that substantial evidence exists to support the Board’s finding of falsification of time records and that the Board made no error of law in denying benefits.

In its decision, the Board found that Claimant conceded at the referee’s hearing that on July 30, 2010, she took 70 minutes for her lunch break rather than the permissible 30 minutes. The transcript of the referee’s hearing confirms this. Claimant reiterates that her car broke down and that she made up the lost time. The record shows that, by her own admission, Claimant took an extra 40 minutes for her lunch break on July 30, 2010.<sup>2</sup>

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<sup>1</sup>Title 19 *Del.C.* §3323(a); *Starkey v. Unemployment Ins. Appeal Bd.*, 340 A.2d 165, 166 (Del.Super.), *aff’d*, 364 A.2d 651 (Del. 1976).

<sup>2</sup>The parties do not dispute that Claimant had a history of taking personal telephone calls and failing to reflect them on her time sheets. A written warning dated July 22, 2010, summarizes these actions as follows:

The Board also found that Claimant falsified her time sheets by not recording the 40 minutes and by indicating that she had completed her work for all her patients that day. The Board's decision stated that the car repair was personal business that should not be recorded as work time.

Claimant argues, as she has from the outset, that lunch breaks are not typically recorded because the care givers travel among locations and take lunch when they can. Employer does not dispute this fact but reaffirms that the permissible lunch break is 30 minutes. Employer's representative stated that when Claimant recorded her time for July 30, 2010, she selected "PCG," which registers with the computer that the patient care giver, not a family member, completed the care.

Claimant acknowledged that the patient's daughter-in-law said she would care for the patient that day and that Claimant did not explain this to anyone at the time. Claimant indicated that she did not speak with the patient herself. The Employer's Representative testified that the patient called in the afternoon to say that Claimant had not come that day. Thus, substantial evidence exists to support the Board's finding that Claimant falsified her time records for July 30, 2010.

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Falsification of documentation: There are 11 different incidents of personal calls taken while April was marked on the time sheet as giving personal care. This is in direct violation of our policy of providing excellent patient care and falsifying documentation. Time sheets indicating personal care being given would indicate no other activity is going on.

No legal error exists in the Board's decision. This Court has previously held that an employee's falsification of time records can constitute just cause for termination.<sup>3</sup> Based on the record evidence, the Board properly found just cause for Claimant's termination. The Board's decision is supported by substantial evidence and is free from legal error. For these reasons, the decision disqualifying April Handy from receipt of unemployment benefits is **AFFIRMED**.

**IT IS SO ORDERED.**

Very truly yours,

Richard F. Stokes

cc: Prothonotary  
UIAB

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<sup>3</sup>*McKoy v. Delaware Dept. of Labor, Division of Unemployment Ins.*, 1997 WL 819135, at \*3 (Del. Super.).